IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

MACA.No. 579 of 2004()

AWARD DT. 10.12.03 IN OP(MV).258/2000 of MOTOR ACCIDENT CLAIMS TRIBUNAL, MUVATTUPUZHA.
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APPELLANTS/PETITIONERS
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1. **OMANA W/O. LATE KRISHNANKUTTY**
   KUNNEL HOUSE, KUMARAMANGALAM, THODUPUZHA.

2. **ABIN S/O. LATE KRISHNANKUTTY,**
   KUNNEL HOUSE, KUMARAMANGALAM, THODUPUZHA.

3. **ANUMOL, D/O. LAE KRISHNANKUTTY**
   (MINOR) REPRESENTED BY HER MOTHER OMANA.

4. **LAKSHMI W/O. LATE NARAYANAN,**
   KUNNEL HOUSE, KUMARAMANGALAM, THODUPUZHA,
   (MOTHER OF THE DECEASED)

BY ADV. SMT.ANNIE PAUL
SRI.PHILIP J.VETTICKATTU

RESPONDENTS: RESPONDENTS
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1. **DOMNY K.JAMES, KOCHIVAMBILLIL HOUSE,**
   UDUBANNOOR P.O., THODUPUZHA.

2. **NOUSHAD S/O. BEEVIKASSEEM,**
   PAZHAYAMBALATH HOUSE, MADAKKATHANAM,
   MUVATTUPUZHA.

3. **THE BRANCH MANAGER, THE UNITED INDIA**
   INSURANCE COMPANY LIMITED, ALUVA.

BY ADV. SMT.P.K.SANTHAMMA

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 01/ 06 / 2007 , THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.A.C.A.No.579 OF 2004

Dated 1st June, 2007

JUDGMENT

Koshy,J.

One Krishnankutty died in a motor accident on 14.1.2000. His dependants namely wife, two children and old mother claimed compensation amounting to Rs.5,00,000/=. Though Tribunal found that the accident occurred due to the negligence of the driver of the vehicle insured by the third respondent insurance company, total compensation awarded was only Rs.1,99,500/=. Only quantum of compensation is disputed in this appeal and we are considering only that aspect.

2. According to the appellants, the deceased was working as a baker cum supervisor. A salary certificate was produced to show that he was getting Rs.4,500/= per month. Ext.A1 is the salary certificate. The person who issued the salary certificate was examined as PW1. He deposed that the deceased was earlier working with his father. Thereafter, when bakery started, he was deputed there. It was also admitted that his name was not entered in the muster roll. Therefore, the Tribunal did not accept the salary certificate. However, it was argued by the counsel for the appellants that even a manual worker in Kerala will get Rs.150/= per day and

Rs.1,500/= fixed as notional income is too low. Taking all these aspects, we take Rs.1,800/= as monthly income as he was maintaining a family consisting of four persons. When Rs.1,800/= is the monthly income, after deducting one third for personal expenses, the loss of dependency will be Rs.1,200/=. So, compensation for loss of dependency will be Rs.1,200 x 12 x 13 = 1,87,200/=. Only Rs.1,56,000/= was awarded by the Tribunal under that head. Thus, the additional compensation payable under that head will be Rs.31,200/=. We see no ground to interfere with the compensations awarded under other heads. The above amount of Rs.31,200/=, over and above the decreed amount, should be deposited by the third respondent insurance company with 8% interest from the date of application till its deposit, within three months from the date of receipt of a copy of this judgment. On deposit, the amount can be withdrawn by the appellants in the same proportion as decided by the Tribunal.

The appeal is partly allowed.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

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